

REMARKS

Upon receipt of this response, the Examiner is respectfully requested to contact the undersigned representative of the Applicant to arrange a telephone interview concerning the inventive merits of this application.

The drawings are objected to for the reasons noted in the official action, e.g., the failure to show the end 34 of the telescopic prop 35, as described in the specification. All of the raised drawing objections are believed to be overcome by the requested drawing amendments accompanying the attached Submission. New Replacement Sheets of formal drawing(s), accompany this Submission, and incorporate all of the requested drawing amendment(s). If any further amendment to the drawings is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

Claims 9-21 (presumably only claims 9-14 are rejected since claims 15 and 21 are independent claims while 16-20 are dependent claims and none of which depend from claim 9) are rejected under 35 U.S.C. § 112, first paragraph, for the reasons noted in the official action. The inadequate written description rejection is acknowledged and respectfully traversed in view of the cancellation of claims 9-14, without prejudice or disclaimer of the subject matter therein, from this application in favor of new claims 22-25.

Next, claims 9-21 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over Testu (FR Patent No. 2,663,075) in view of Blier '057 (U.S. Patent No. 4,371,057). The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the above amendments and the following remarks.

As previously noted, the presently claimed invention relates to an access unit for covering an opening in an upper floor. The access unit comprising a support frame having a generally O or oval shaped central region which is defined by first and second U-shaped members which each comprise a base frame defining one end of the open central region, and a pair of spaced apart side arms extending parallel to one another from opposite ends of the base frame. The pair of side arms of the first member are telescopically received within the pair of side arms of the second member to facilitate adjustment of a length of the open central region.

An important aspect is that the open central region, defined by the base frame and the pair of spaced apart side arms of the first member and the base frame and the pair of spaced apart side arms of the second member, is completely open and unobstructed opening which allows unhindered passage of at least a person through the open central region, while the telescopic adjustment of the pair of spaced apart side arms facilitates desired separation and spacing of the base frame of the first member from the base frame of the second member so as to permit altering of the size of the open central region to fit within a desired opening, such as a stairwell. At least one clamp is provided for temporary securing of the side arms of the first member with the side arms of the second member, at a pre-determined relationship to prevent relative movement, and at least one adjustable prop which is pivotably attached adjacent the base frame of the second member for supporting the second member at a desired height, generally at the same level as the base frame member of the first member so that the access unit extends parallel to the floor of the upper surface.

Turning now to the raised rejection, all of the claims are rejected in view Testu `075 in combination with newly cited Blier `057. As previously noted, the Applicant respectfully submits that there are major differences between the teachings, suggestions, disclosures and/or hints of Testu `075 and the presently claimed

Firstly, Testu `075 does not, in fact, show an open central region, especially a completely open and unobstructed open central region, as now claimed. In addition, the preamble of Testu `075 is more specifically concerned with the need for stable support of a ladder mounted on such a device. Consequently, it would be reasonable to assume that the two overlapping mesh members should be securely relative to the rest of the structure in such a way that inadvertent displacement of the members, and so of an ladder seated upon them, should not occur. Testu `075 is particularly concerned with the provision of a light weight unit to serve as a support for a ladder which is readily located on and removed from a staircase incorporating locking components which are readily operated. Thus, Testu `075 provides a stable unit for use in a staircase which seats on legs of readily adjustable length. It is respectfully submitted that it can be readily adjusted to be accommodated in a space without being coupled in any way to the boundaries of that space.

The Applicant respectfully submits that the Examiner is incorrect in asserting (in the first paragraph of page 7 of the office action) that Testu `075 teaches a platform member which has two working positions, the first being as shown in FIG. 12 and a second where the platform member is withdrawn to allow access. It is respectfully submitted that no such second working position appears to be in any taught, suggested, shown or remotely hinted at in Testu `075. In passing, it is observed that FIGS. 9 and 10 of the Testu `075 show alternative arrangements in the way the mesh supporting parts of the device can be disposed prior to the mesh members being put in place. However, it is respectfully submitted that these figures do not represent a second working position, which would not be usable for the purpose discussed by Testu `075.

As noted above, the present invention is concerned with a support frame which can be mounted, and be incorporated, in an aperture while being supported at two levels (such as the bottom and top of a staircase), so as to completely bound the opening in the aperture in which the unit of the present invention is located. The central region of the access unit is capable of being deliberately left open (unlike the Testu `075 mesh members) to allow people, articles and/or loads to readily pass between floors through the region. In order to close off the central region, a removable platform member covers the central region so as to prevent inadvertent passage of something or somebody on the upper floor through the central region.

As is apparent from the above, it is respectfully submitted that Testu `075 does not in any way teach, suggest, disclose or remotely hint at have a support frame including U-shaped first and second members in which each of the first and the second members comprises a base frame defining one end of the open central region, and a pair of spaced apart side arms extending parallel to one another from opposite ends of the base frame with an open end of each of the first and the second U-shaped members facing one another, as presently claimed. The arrangements of Figs. 1, 9, 10 and 12 of Testu `075, for example, is not generally U-shaped and, in any event, Testu `075 certainly does not have the open ends of each of the first and the second U-shaped members facing one another, as presently claimed.

Moreover, as the Examiner has appreciated, the open central region is completely unobstructed and open without anything being located between the base frames for the first and the second members so as to allow unhindered passage of a person through the open central

region. In an attempt to overcome this deficiency of Testu '075, the Examiner combines Testu '075 with Blier '057.

The Applicant notes that Blier '057 discloses a telescopic scaffold unit which arguably provides an openwork central section. However, Blier '057 discloses a scaffold unit *with telescopic legs at both ends which provide for the scaffolding to support a horizontal working platform regardless of the height of the floor under each leg*. It is respectfully submitted that the provisions for both linear and angular alignment of the legs and of the telescopic elements for the support platform result in a relatively heavy component. In the context in which the present invention is to be used, the degree of adjustment available from the Blier '057 unit is unnecessary.

As can be seen by the drawing of Testu '075 shown on page 20 of the official action, elements 2 and 5 form a centrally located T-shaped member which clearly obstructs the central opening of Testu '075. In view of such specific teaching and disclosure of Testu '075, the Applicant respectfully submits that one skilled in the art, upon viewing Testu '075 and Blier '057, would not combine those two references with one another to result in a completely open central access, as presently claimed, without the use of hindsight and/or without using the disclosure of the pending specification, both of which are improper and contrary to case law. Moreover, it is respectfully submitted the resulting combination would still not have the open end of each of the first and second U-shape numbers facing one another, as presently claimed. Accordingly, the raised rejection in view of the applied art of Testu '075 and Blier '057 should be withdrawn at this time in view of the forgoing.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, new independent claims 15, 21 and 22 of this application now recite the features of the support frame including U-shaped first and second members with an open end of each U-shaped configuration facing one another. In addition, independent claims 15 and 21 of this application also recite the features the base frame of the first member has a flange for overlying the upper floor defining the opening therein to facilitate retaining the base frame of the first member within the opening at a level of the upper floor. Such features are

believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Testu and/or Blier '057 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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